

House Bill 194 (AS PASSED HOUSE AND SENATE)

By: Representatives Martin of the 47<sup>th</sup>, Burkhalter of the 50<sup>th</sup>, Amerson of the 9<sup>th</sup>, Royal of the 171<sup>st</sup>, Ashe of the 56<sup>th</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated,  
2 relating to the imposition, rate, and computation of income tax, so as to provide for income  
3 tax credits with respect to teleworking for a limited period of time; to provide for definitions;  
4 to provide for conditions, limitations, and exclusions; to provide for powers, duties, and  
5 authority of the state revenue commissioner with respect to the foregoing; to change certain  
6 provisions regarding calculation of the entertainment industry income tax credit in the event  
7 a tier designation is changed; to provide for effective dates; to provide for applicability; to  
8 repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 **SECTION 1.**

11 Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to the  
12 imposition, rate, and computation of income tax, is amended by adding a new Code section  
13 immediately following Code Section 48-7-29.9, to be designated Code Section 48-7-29.10,  
14 to read as follows:

15 "48-7-29.10.

16 (a) As used in this Code section, the term:

17 (1) 'Eligible telework expenses' means expenses incurred during the calendar year  
18 pursuant to a telework agreement, up to a limit of \$1,200.00 for each participating  
19 employee, to enable a participating employee to begin to telework, which expenses are  
20 not otherwise the subject of a deduction from income claimed by the employer in any tax  
21 year. Such expenses shall include, but not be limited to, expenses paid or incurred to  
22 purchase computers, computer related hardware and software, modems, data processing  
23 equipment, telecommunications equipment, high-speed Internet connectivity equipment,  
24 computer security software and devices, and all related delivery, installation, and  
25 maintenance fees. Such expenses shall not include replacement costs for computers,

1 computer related hardware and software, modems, data processing equipment,  
2 telecommunications equipment, or computer security software and devices at the  
3 principal place of business when that equipment is relocated to the telework site. Such  
4 expenses shall not include expenses for which a credit is claimed under any other  
5 provision of this article. Such expenses may be incurred only once per employee. Such  
6 expenses may be incurred directly by the employer on behalf of the participating  
7 employee or directly by the participating employee and subsequently reimbursed by the  
8 employer.

9 (2) 'Employer' means any employer upon whom an income tax is imposed by this article.

10 (3) 'Participating employee' means an employee who has entered into a telework  
11 agreement with his or her employer on or after the effective date of this Code section.  
12 This term shall not include an individual who is self-employed or an individual who  
13 ordinarily spends a majority of his or her workday at a location other than the employer's  
14 principal place of business.

15 (4) 'Telework' means to perform normal and regular work functions on a workday that  
16 ordinarily would be performed at the employer's principal place of business at a different  
17 location, thereby eliminating or substantially reducing the physical commute to and from  
18 that employer's principal place of business. This term shall not include home based  
19 businesses, extensions of the workday, or work performed on a weekend or holiday.

20 (5) 'Telework agreement' means an agreement signed by the employer and the  
21 participating employee, on or after the effective date of this Code section, that defines the  
22 terms of a telework arrangement, including the number of days per year the participating  
23 employee will telework, as provided in subsection (b) of this Code section in order to  
24 qualify for the credit, and any restrictions on the place from which the participating  
25 employee will telework.

26 (6) 'Telework assessment' means an optional assessment leading to the development of  
27 policies and procedures necessary to implement a formal telework program which would  
28 qualify the employer for the credit provided in subsection (b) of this Code section,  
29 including but not limited to a workforce profile, a telework program business case and  
30 plan, a detailed accounting of the purpose, goals, and operating procedures of the  
31 telework program, methodologies for measuring telework program activities and success,  
32 and a deployment schedule for increasing telework activity.

33 (b) For taxable years beginning or ending on or after January 1, 2008, and prior to January  
34 1, 2010, an employer shall be allowed a state income tax credit against the tax imposed by  
35 Code Section 48-7-20 or Code Section 48-7-21 for a percentage of eligible telework

1 expenses incurred in the calendar years 2008 and 2009. The amount of such credit shall  
2 be calculated as follows:

3 (1) The credit shall be equal to 100 percent of the eligible telework expenses incurred  
4 pursuant to a telework agreement requiring the participating employee to telework at least  
5 12 days per month if the employer's principal place of business is located in an area  
6 designated by the United States Environmental Protection Agency as a nonattainment  
7 area under the federal Clean Air Act, 42 U.S.C. Section 7401 et seq.;

8 (2) The credit shall be equal to 75 percent of the eligible telework expenses incurred  
9 pursuant to a telework agreement requiring the participating employee to telework at least  
10 12 days per month; or

11 (3) The credit shall be equal to 25 percent of the eligible telework expenses incurred  
12 pursuant to a telework agreement requiring the participating employee to telework at least  
13 five days per month.

14 (c)(1) In addition to the credit provided by subsection (b) of this Code section, an  
15 employer conducting a telework assessment on or after the effective date of this Code  
16 section shall be allowed a credit in the calendar year of implementation of the employer's  
17 formal telework program against the tax imposed by Code Section 48-7-20 or Code  
18 Section 48-7-21 for 100 percent of the cost, up to a maximum credit of \$20,000.00 per  
19 employer, of preparing the assessment. Such costs shall not be eligible for such credit if  
20 they are otherwise the subject of a deduction from income claimed by the employer in any  
21 tax year. Costs incurred on or after the effective date of this Code section and before  
22 January 1, 2008, shall be treated as being incurred on January 1, 2008, for purposes of  
23 this Code section. The credit provided by this subsection is intended to include program  
24 planning expenses, including direct program development and training costs, raw labor  
25 costs, and professional consulting fees; the credit shall not include expenses for which  
26 a credit is claimed under any other provision of this article. This credit shall be allowed  
27 only once per employer.

28 (2) All telework assessments eligible for a state income tax credit under this subsection  
29 shall meet standards for eligibility promulgated by the commissioner.

30 (d) In no event shall the total amount of any tax credit under this Code section for a taxable  
31 year exceed the employer's income tax liability. No unused tax credit shall be allowed to  
32 be carried forward to apply to the employer's succeeding years' tax liability. No such tax  
33 credit shall be allowed the employer against prior years' tax liability.

34 (e)(1) An employer seeking to claim a tax credit provided for under subsections (b) and  
35 (c) of this Code section must submit an application to the commissioner for tentative  
36 approval of the tax credit provided for in subsections (b) and (c) of this Code section

1 between September 1 and October 31 of the year preceding the calendar year for which  
2 the tax credit is to be earned. The commissioner shall promulgate the rules and forms on  
3 which the application is to be submitted. Amounts specified on such application shall  
4 not be changed by the employer after the application is approved by the commissioner.  
5 Such applications must certify that the employer would not have incurred the eligible  
6 telework expenses mentioned therein but for the availability of the tax credit. The  
7 commissioner shall review such application and shall tentatively approve such application  
8 upon determining that it meets the requirements of this Code section.

9 (2) The commissioner shall provide tentative approval of the applications by the date  
10 provided in paragraph (3) of this subsection. In no event shall the aggregate amount of  
11 tax credits approved by the commissioner for all qualified employers under this Code  
12 section in a calendar year exceed:

13 (A) \$2,000,000.00 for credits earned in calendar year 2008; and

14 (B) \$2,000,000.00 for credits earned in calendar year 2009.

15 (3) The Department shall notify each employer of the tax credits tentatively approved  
16 and allocated to such employer by December 31st of the year in which the application  
17 was submitted. In the event that the credit amounts on the tax credit applications filed  
18 with the commissioner exceed the maximum aggregate limit of tax credits under this  
19 subsection, then the tax credits shall be allocated among the employers who filed a timely  
20 application on a pro rata basis based upon the amounts otherwise allowed by this Code  
21 section. Once the tax credit application has been approved and the amount approved has  
22 been communicated to the applicant, the employer (applicant) may make purchases  
23 approved for the tax credit at any time during the calendar year following the approval  
24 of the application. The employer may then apply the amount of the approved tax credit  
25 to their tax liability for the tax year or years for which the approved application applies.  
26 In the event the employer has a tax year other than a calendar year and the calendar year  
27 expenses are incurred in more than one taxable year, the credit shall be applied to each  
28 taxable year based upon when the expenses are incurred.

29 (f) Notwithstanding the provisions of Code Sections 48-2-15, 48-7-60, and 48-7-61, on or  
30 before December 31, 2010, for credits allowed in calendar year 2008 and by December 31,  
31 2011, for credits allowed in calendar year 2009, the commissioner shall make available a  
32 public report disclosing the employer names and amounts of credit claimed under this Code  
33 section.

34 (g) The commissioner shall promulgate any rules and regulations necessary to implement  
35 and administer this Code section."

**SECTION 2.**

Said article is further amended by striking paragraph (9) of Code Section 48-7-40.26, relating to definitions regarding the entertainment industry income tax credit, and inserting in its place a new paragraph (9) to read as follows:

"(9) 'Tier' means a tier as designated pursuant to Code Section 48-7-40, as amended. In the event production expenditures will occur in more than one taxable year for a particular state certified production, the commissioner shall prescribe redesignation procedures to ensure that the production company can claim credits for such state certified production in future years without regard to whether or not a particular county is reclassified in a different tier."

**SECTION 3.**

(a) Except as otherwise provided in subsection (b) of this section, this Act shall become effective July 1, 2006.

(b) Section 1 of this Act shall become effective on July 1, 2007.

**SECTION 4.**

All laws and parts of laws in conflict with this Act are repealed.